

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24205)
to Appropriate from Rains Creek)
Tributary to Russian River in)
Sonoma County,)

FRANCIS M. BOUCHER,)

Applicant,)

STEVE AND WINIFRED CONNOLLY,)

Protestants)

Decision: 1515

Source: Rains Creek

County: Sonoma

DECISION APPROVING APPLICATION 24205, IN PART

BY THE BOARD:

Francis M. Boucher having filed Application 24205 for a permit to appropriate unappropriated water; a protest having been received; the applicants and protestants having stipulated to proceedings in lieu of hearing as provided by Section 737, Article 14, Subchapter 2, Chapter 3, California Administrative Code; an investigation having been made by the Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

Substance of Application

1. Application 24205 is for a permit to divert to storage 49.7 acre-feet per annum (afa) from October 1 of each year to May 15 of the succeeding year for irrigation, domestic, recreational, and fish culture purposes. The point of diversion is within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 32, T11N, R10W, MDB&M, and the source is Rains Creek tributary to the Russian River.

Applicant's Project

2. In 1960 the applicant constructed a 24 foot high by 173 foot long

earthfill dam which impounds 36.8 acre-feet.^{1/} The applicant's uses include the following:

- a. irrigation of nine acres of golf courses, lawns, and gardens;
 - b. domestic service to 31 separately owned, metered residences and to a campground owned by the applicant;
 - c. recreation at the reservoir and at four swimming pools;
- and
- d. fish culture at the reservoir.^{2/}

3. Steve and Winifred Connolly filed a protest to the approval of Application 24205. Protestants Connolly protested on the grounds of injury to their vested right to divert water from Rains Creek in accordance with License 6185 issued on Application 17745. License 6185 authorizes the diversion of 5,000 gallons per day (gpd) from Rains Creek year-round. The point of diversion under License 6185 is about ¼ mile downstream of the applicant's existing dam.

4. The protestants' major concern is with the diversion season for any permit issued on Application 24205. The protestants request that the diversion season be limited to the period from November 1 to March 31. The applicant agreed to the elimination of the month of October from the diversion season. The applicant requests a permit be issued during the period from November 1 of each year to May 15 of the succeeding year.

1/ The capacity of the reservoir, which differs from the quantity applied for, was determined by a survey made during the field investigation.

2/ The applicant has a Water Supply Permit issued by the County of Sonoma for said domestic service; the applicant has a Domestic Fish Breeder's license issued by the Department of Fish and Game.

Existence of Unappropriated Water

5. Rains Creek is a small stream tributary to the Russian River, having a watershed about 850 acres upstream from the applicant's point of diversion. The watershed is heavily wooded and varies between 360 feet and 1,400 feet in elevation. Rainfall data indicates a runoff much greater than the requirements of protestant and applicant. Protestant Connolly concedes this fact but, as earlier stated, is primarily concerned with the length of the diversion season.

6. Correlation between precipitation at nearby Cloverdale and available streamflow measurements of Rains Creek indicates that there is unappropriated water to supply the applicant and Protestant Connolly during the period from November 1 of each year to May 15 of the next year.

7. U.S.G.S. records of flow in the Russian River at Guerneville, the lower most gage below most diversions, show that the monthly mean discharge for the 21 year period of 1940 through 1960 was 839 cubic feet per second (cfs) for May and 327 cfs for June. The mean November flow for this period was 693 cfs. The total demand under prior rights is less than these amounts. Thus, unappropriated water is available during the diversion season requested in Application 24205 as against users on the Russian River.

Findings Concerning the California Environmental Quality Act

8. The Board has prepared a Negative Declaration in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) and the State Guidelines. The Board has reviewed and considered the information in the Negative Declaration and the Board determines that there will be no significant effect on the environment as a result of the project.

9. The records, documents and other data considered by the Board in this matter are the following:

- a. Files of Applications 24205 and 11745;
- b. Statement of Water Diversion and Use S8118;
- c. Board Decisions D 1030 and D 1110; and
- d. U. S. Department of Commerce, National Oceanic and Atmospheric Administration. Climatological Data for California, for the period of published record.

10. From the foregoing findings, the Board concludes that Application 24205 should be approved in part and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the following order.

ORDER

IT IS HEREBY ORDERED that Application 24205 be approved in part and that a permit be issued to the applicant subject to vested rights, to standard permit terms 6, 10, 11, 12, 13, 101 and to the following terms and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 49.7 acre-feet per annum to be collected from November 1 of each year to May 15 of the succeeding year.

2. Complete application of the water to the proposed use shall be made on or before December 1, 1982.

3. The permittee shall install measuring devices, satisfactory to the State Water Resources Control Board, which are capable of measuring the flow of Rains Creek upstream from the reservoir and downstream from the toe of the dam. Said measuring devices shall be properly maintained.

4. Permittee shall install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit may be released.

5. This permit is subject to the prior rights under License 6185 (Application 17745) held by Mr. and Mrs. Steve Connolly.

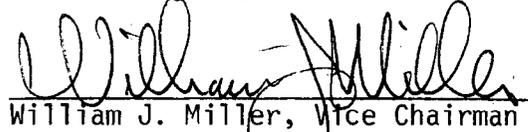
6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

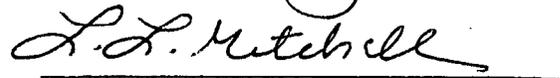
7. The Chief of the Division of Water Rights shall not issue a permit on Application 24205 until condition 4 of this decision has been complied with and the outlet pipe or other method of bypass has been approved by the Chief of the Division of Water Rights.

Dated: JUL 19 1979

ABSENT

W. Don Maughan, Chairman


William J. Miller, Vice Chairman


L. L. Mitchell, Member


Carla M. Bard, Member

